

## Estate Administration — Checklist

This checklist outlines some of the basic considerations in the administration of an estate.

### Preliminary Steps

- ❑ Locate will and codicil and review to determine whether there are any special funeral directions.
- ❑ Look at deceased's burial arrangements and the means of payment of this expense.
- ❑ Talk to lawyer to obtain notarial copies of will.
- ❑ If deceased died intestate, determine administrator and beneficiaries.
- ❑ Arrange preliminary meeting with lawyer and bring documents and information.

Some of the relevant documents and information include:

- ❑ Names, addresses and ages of the deceased, the deceased's spouse or common law partner and the beneficiaries.
- ❑ Insurance owned by deceased both on his or her own life as well as on the life of others.
- ❑ Bank account information.
- ❑ Stocks and Bonds listing.
- ❑ Real estate information.
- ❑ If the deceased was a party to an agreement, then a copy of such agreement (i.e. buy-sell or shareholders agreement)
- ❑ If the deceased was subject to a court order, then a copy of such an order (i.e. spousal support order).

- ❑ Information regarding the deceased's RRSPs, RRIFs, annuities, pension and any other type of retirement plan.
- ❑ List of outstanding debts and liabilities.
- ❑ List general responsibilities such as protecting assets, continuing businesses, obtaining title documents. The personal representative needs to:
  - ❑ search for cash, securities, jewellery and other valuables, and arrange for safekeeping;
  - ❑ lock up the residence and notify the police that the home is vacant. In winter, ensure that the house remains heated or drain the pipes to prevent freezing;
  - ❑ examine insurance coverage and insure estate assets (motor vehicle, house, furniture, jewellery, art, etc.) against perils and fire;
  - ❑ for motor vehicles, check the insurance policy for adequate coverage and permitted uses. For example, if someone is using the vehicle and there is not adequate coverage, the estate may be liable, or you, the personal representative, may be liable personally;
- ❑ dispose of all perishable assets (for example, if the deceased owns a business and he or she sold perishable produce), so that the value of the estate is not diminished); and
- ❑ Organize interim management for the business of the deceased, where applicable. If you, as the personal representative, decide to run the business, you must consider matters of personal liability.
- ❑ Arrange for listing of safety deposit box, if necessary.
- ❑ Arrange for application for provincial death certificate.
- ❑ Stop quarterly tax payments.

## **Executors' first meeting with lawyer**

- ❑ Review general responsibilities of a personal representative and solicitor
- ❑ Review will, codicil and memoranda.
- ❑ Was the will properly executed?
- ❑ Did the testator have the requisite testamentary capacity?
- ❑ Was the testator subject to undue influence?
- ❑ If the will is a holograph will, is it valid?
- ❑ Did the testator marry or divorce after executing the will?
- ❑ Was the witness to the will a beneficiary or the spouse of a beneficiary?
- ❑ Obtain information respecting deceased, beneficiaries, assets, liabilities and other matters (see information summary above).
- ❑ Are all of the executor's willing to act or do any of them wish to renounce?
- ❑ If the spouse is an executor is there any potential for a conflict of interest?
- ❑ Determine whether there is a possibility of a claim by a dependent under the relevant provincial legislation.
- ❑ Review basis of executor's compensation.
- ❑ Review basis for solicitor's fees.
- ❑ Consider who is to perform work of personal representative and payment for such work if done by solicitor.
- ❑ Consider need to advertise for creditors.
- ❑ Review need to file foreign tax returns.

- ❑ Review entitlement to Canada Pension Plan death benefits, survivors' benefits and orphans' benefits, including original documents needed to make application for each benefit, such as social insurance card of deceased and surviving spouse or children, birth certificate, marriage certificate, birth certificates of children.
- ❑ Review immediate financial requirements of deceased's family. The following are potential sources of funds:
  - ❑ life insurance policies — only viable if the designated beneficiary(ies) are immediate family;
  - ❑ employment pay — if the deceased was an employee at the time of death, there may be some type of termination pay available (only viable if payable to a family member and not estate);
  - ❑ death benefit — there may be a death benefit through the employee's pension plan (only viable where directly payable to family);
  - ❑ Canada Pension Plan — if the deceased contributed to the CPP, one can potentially obtain a lump-sum death benefit, while the survivor and children may be entitled to monthly payments;
- ❑ Review need to open estate bank account.

### **Dates to Diarize**

- ❑ *Regular Form T1 terminal year return* — In general, where the taxpayer died before November in a calendar year, the return must be filed by April 30 of the next calendar year. Where the death occurred in November or December, the return must be filed within six months of the date of death. An exception is made where property passes to a spousal trust to which subsection 70(7) applies, in which case the terminal.

- ❑ *The return for year immediately prior to terminal year* — Where the death occurred before May in the terminal year, the return for immediately prior year is due within six months of death.
- ❑ *The partnership or sole proprietorship stub period return* — Subject to the same filing deadline for T1 terminal returns.
- ❑ *The testamentary trust stub period return* — Subject to the same filing deadline for T1 terminal returns.
- ❑ *The rights or things separate return* — The return must be filed by the later after the date of death and 90 days after the mailing of a notice of assessment for the terminal year.
- ❑ *Election to opt out of the regular spousal rollover under subsection 70(6.2) or the election regarding the spousal rollover of resource property* — These elections are made in the regular terminal return.
- ❑ *The election under subsection 164(6) to carry back a loss from the estate's first taxation year to the terminal year* — The election must be made in writing by the later of the filing deadline for the terminal year and that of the estate's first taxation year.
- ❑ *The election to pay the deceased's tax in yearly installments under subsection 159(5)* — The election form T2075 must be filed by the filing deadline for the T1 terminal year returns.
- ❑ *The clearance certificate* — The application can be made at any time, but the certificate must be received from Revenue Canada before the personal representative distributes any of the deceased's (estate's) property to the beneficiaries.
- ❑ *Foreign Tax Returns* — Date for filing any foreign tax returns necessary.